

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CHARLES MANLEY,	)	3:07-CV-0374-LRH (VPC)
	)	
Plaintiff,	)	<u>MINUTES OF THE COURT</u>
	)	
vs.	)	July 28, 2008
	)	
NEVADA DEPARTMENT OF	)	
CORRECTIONS, et al.,	)	
	)	
Defendants.	)	
_____	)	

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PETITIONER(S): NONE APPEARING

COUNSEL FOR RESPONDENT(S): NONE APPEARING

**MINUTE ORDER IN CHAMBERS:**

Several motions are pending before the court. The court will address each in turn.

**#29 Plaintiff's motion for emergency injunctive relief, and**  
**#42 Plaintiff's motion to dismiss motion for emergency injunctive relief**

Plaintiff filed a motion to dismiss his motion for emergency injunctive relief (#42) which the court construes as a motion to withdraw his motion for emergency injunctive relief (#29). Plaintiff's motion to withdraw (#42) is **GRANTED** and plaintiff's motion for emergency injunctive relief (#29) is deemed **WITHDRAWN**.

**#33 Defendants' motion for leave to depose plaintiff, an incarcerated person**

Defendants' motion for leave to depose incarcerated plaintiff (#33) is **GRANTED**. The deposition shall be conducted either in person at plaintiff's place of confinement or telephonically and shall be scheduled at a time that is conducive to prison security. Following the deposition, defendants shall provide a copy of the deposition transcript to the plaintiff.

**#36 Plaintiff's motion to dispute a statement in defendants' motion for enlargement of time to oppose plaintiff's emergency injunctive relief (#30)**

In light of plaintiff withdrawing his motion for emergency injunctive relief (#42), plaintiff's motion to dispute a statement in defendants' motion for enlargement of time to oppose plaintiff's emergency injunctive relief (#36) is **DENIED as moot**.

**#38 Defendants' motion for leave to file confidential medical records and medical declarations**  
**under seal**

This motion seeks to file under seal medical records in support of defendants' opposition to plaintiff's motion for emergency injunctive relief (#38). Because defendants have not yet submitted any confidential medical records or declarations and in light of plaintiff withdrawing his motion for emergency injunctive relief (#42), defendants' motion for leave to file confidential medical records and medical declarations under seal (#30) is **DENIED as moot**.

#### **#40 Plaintiff's motion for appointment of counsel**

A litigant in a civil rights action does not have a Sixth Amendment right to appointed counsel. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). In very limited circumstances, federal courts are empowered to request an attorney to represent an indigent civil litigant. The circumstances in which a court will make such a request, however, are exceedingly rare, and the court will make the request under only extraordinary circumstances. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 799-800 (9th Cir. 1986); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). A finding of such exceptional circumstances requires that the court evaluate both the likelihood of success on the merits and the *pro se* litigant's ability to articulate his claims in light of the complexity of the legal issues involved. Neither factor is controlling; both must be viewed together in making the finding. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991), *citing Wilborn, supra*, 789 F.2d at 1331. The court exercises discretion in making this finding.

The court will not enter an order directing the appointment of counsel in this case. The plaintiff has demonstrated that he is able to litigate this case on his own. He has filed a complaint and motions with the court. The plaintiff may have the assistance of law clerks at the prison. Moreover, none of the issues in this case appears to be particularly complex.

Therefore, plaintiff's motion for appointment of counsel (#40) is **DENIED**.

**IT IS SO ORDERED.**

LANCE S. WILSON, CLERK

By: /s/  
Deputy Clerk